

TAB 12

ROBERT KLIMAS

August 24, 2017

Page 1

09:45:36

ESTATE OF PIERRE LOURY,)
4 Deceased, by Tambrasha)
Hudson, Administrator,)
5 Plaintiff,)
6 -vs-) No. 16 C 04452
7 CITY OF CHICAGO, Chicago)
8 Police Officers SEAN HITZ)
(Star No. 6272) and JEFF J.)
9 RIORDAN (Star No. 7716),)
10 Defendants.)

11

12 Videotape deposition of COMMANDER ROBERT
13 KLIMAS, taken before NANCY DECOLA EATINGER, C.S.R.,
14 and Notary Public, pursuant to the Federal Rules of
15 Civil Procedure for the United States Courts
16 pertaining to the taking of depositions for the
17 purpose of discovery, at Suite 2300, 191 North Wacker
18 Drive, Chicago, Illinois, commencing at 9:57 o'clock
19 a.m., taken on August 24th, 2017.

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21

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23

24

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1

(Witness sworn)

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2

COMMANDER ROBERT KLIMAS,

3

called as a witness herein, having been first duly
4 sworn, was examined upon oral interrogatories and
5 testified as follows:

6

EXAMINATION

7

By Mr. Stroth:

8

Q Commander Klimas, thank you for coming in 09:59:35
9 today.

10

A You're welcome.

09:59:37

11

Q You are here today to give testimony on 09:59:39
12 behalf of the City of Chicago, is that correct?

09:59:41

13

A That's correct.

09:59:43

14

Q You understand that you are not giving 09:59:44
15 testimony in your personal capacity?

09:59:47

16

A Correct.

09:59:50

17

Q Have you given deposition testimony in the 09:59:50
18 past?

09:59:55

19

A I have.

09:59:55

20

Q About how many times approximately?

09:59:56

21

A It's probably around seven or more now.

09:59:58

22

Q Have you ever testified as an expert witness 10:00:05
23 in any police-involved shooting case?

10:00:08

24

A No.

10:00:11

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		Page 10
1	A Correct.	10:05:09
2	Q -- is that correct?	10:05:10
3	Did you talk to anyone other than your City	10:05:10
4	lawyer?	10:05:14
5	A I mentioned my deposition to the general	10:05:15
6	counsel of the City of Chicago, Chicago Police	10:05:19
7	Department, aware that they were -- that I was	10:05:25
8	providing a deposition.	10:05:28
9	Q Okay. Are you currently employed with the	10:05:29
10	City of Chicago?	10:05:31
11	A I am.	10:05:32
12	Q And what is your current position?	10:05:32
13	A I'm a commander at the Bureau of Internal	10:05:35
14	Affairs, Chicago Police Department.	10:05:39
15	Q Can you please describe your job	10:05:40
16	responsibilities?	10:05:44
17	A Yeah, I've been a commander since August of	10:05:45
18	2008. My roles at that time and now are the same.	10:05:49
19	In between, and I'll explain, there was	10:05:56
20	another commander that assisted me for a brief period	10:05:59
21	of time, but we have three investigative sections	10:06:01
22	within the Bureau of Internal Affairs.	10:06:07
23	It started off with General Investigations,	10:06:12
24	Special Investigations and Confidential	10:06:15

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1 Investigations. That has changed. Now we have Area Page 11
2 North, Central and South along with Confidential 10:06:17
3 Investigations. 10:06:21
4 My role is to review all confidential cases, 10:06:24
5 cases that are complete. I look -- I sign off on all 10:06:25
6 of those. 10:06:30
7 Then I look at all sustained cases from the 10:06:37
8 other sections, investigative sections that have a 10:06:40
9 penalty of ten days or more. 10:06:44
10 We also have cases that go out to the 10:06:49
11 districts in units. I do not review those. Those 10:06:51
12 are lesser transgressions, but that's part of the 10:06:56
13 Bureau of Internal Affairs to collect and review and 10:07:00
14 disseminate to the appropriate parties. 10:07:03
15 I answer questions to the various commanders 10:07:06
16 and command staff regarding certain issues that come 10:07:09
17 up in an investigation. 10:07:13
18 I make sure we open an investigation if we 10:07:15
19 become aware of misconduct of a department member, 10:07:20
20 whether it's civilian or sworn, and those come from a 10:07:23
21 variety of sources and make -- you know, there's 10:07:27
22 issues. 10:07:34
23 We meet with the superintendent on a weekly 10:07:35
24 basis, we discuss certain matters with the 10:07:37

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1 superintendent, we have meetings periodically with --
2 quarterly with the Cook County -- no, I'm sorry, with
3 the corporation counsel, periodic meetings with the
4 Cook County State's Attorney's Office and
5 periodically with the Federal Bureau of
6 Investigation.

7 Those change based -- it's really based upon
8 issues that are occurring, whether the number of
9 investigations and whether there's some serious
10 ongoing investigations that the FBI is looking at or
11 the Cook County State's Attorney's Office.

12 That's, that's the bulk of my work. I sign
13 off on other various cases that are administratively
14 closed.

15 So you understand, the City of Chicago has a
16 very open complaint allegation system that IPRA
17 handles, and allegations are made against police
18 officers or City department members that really are
19 not -- well, they're not City, City of Chicago,
20 Chicago Police Department personnel. They could be
21 various other agencies within the City of Chicago,
22 and it usually comes up like with an M-plate, this
23 M-plate went through a red light, and they file a
24 complaint against the Chicago Police Department.

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1	Those are administratively closed. I sign	10:09:07
2	off on all of those to make sure that anything that's	10:09:10
3	administratively closed falls, you know, within the	10:09:13
4	parameters that we're not going to investigate, and	10:09:16
5	I'm the one that has to answer to those.	10:09:18
6	Q Understood.	10:09:21
7	A Okay.	10:09:22
8	Q Who do you report to?	10:09:22
9	A We have a chief, and currently that chief is	10:09:23
10	Eddie Welch, III, W-e-l-c-h.	10:09:28
11	Q And prior to the position that you just	10:09:29
12	described, what was your position directly before	10:09:34
13	that?	10:09:36
14	A Prior to that I was a special agent with the	10:09:37
15	Federal Bureau of Investigation, and I was a special	10:09:40
16	agent from 1987 to 2008, and that was -- I retired at	10:09:43
17	the end of July of 2008.	10:09:49
18	Q And what were your duties in that role, in	10:09:51
19	that position?	10:09:55
20	A It changed over the years, but the bulk of my	10:09:55
21	investigation work was in white collar, insurance	10:09:59
22	fraud, commodities fraud, securities fraud, bank	10:10:06
23	fraud, wire fraud, and it was -- I worked in Phoenix,	10:10:09
24	Little Rock and Chicago.	10:10:21

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1 THE WITNESS: What I'm, again, struggling with is
2 we're talking about the investigation, and so the
3 practices of our officers in that investigation
4 failing to, failing to conform to our policies.

5 There will be times that there are, and when
6 you have police-involved shootings, again, they're
7 investigated by IPRA, but I am aware of certain
8 instances in which in the IPRA investigations they
9 have concluded that officers did not conform to
10 policies, and the shooting may be justified, but
11 there are other things that come up that they
12 sustained an allegation that the officers failed to
13 conform from various policies and rules and
14 regulations, and that could be minor. It could be
15 officers need to have the same ammunition in their
16 magazine, there are times when they don't. It has to
17 be the same brand.

18 They also -- it could be as serious as a
19 Rule 14, and that's a false -- making a false
20 statement oral or written, and again, the shooting
21 may have been justified, but they -- their conclusion
22 is the officer lied, and they will seek separation of
23 that officer.

24 MR. STROTH: Q Can you provide me with a

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1 specific example or a case or -- that you remember
2 where there was this type of inquiry?

3 A The minor transgressions occur -- I don't
4 have a specific name of a law member. When they look
5 at the ammunition in an officer's magazine or the
6 shell casings, they need to be the same. That
7 occurs.

8 We're still talking -- you know, if they
9 have a nine-millimeter semi-automatic weapon, they
10 have nine-millimeter rounds, but it's -- they're
11 mixing a Federal brand with a Remington brand, okay,
12 and that's, that's a minor -- they're still
13 nine-millimeter rounds, but they have to be the same
14 brand in the magazine. That occurs.

15 MR. SCHOOP: Could you clarify Federal versus
16 Remington?

17 THE WITNESS: Oh, I'm sorry. Federal is a brand,
18 Federal brand of ammunition, okay. It's a well-known
19 company --

20 MR. STROTH: Q Yes.

21 A -- that manufactures ammunition. Remington
22 is another manufacturer of ammunition and very common
23 brands of nine millimeter.

24 And the Rule 14, I don't recall the name of

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10:18:53
10:18:55
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10:19:00
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10:19:10
10:19:12

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1 the incident, but I do recall the facts in which an
2 officer was off duty, was working security for a
3 Mexican restaurant, and there was a car pulls up and
4 shoots at some people there in front of the
5 restaurant on the sidewalk.

6 The officer ends up shooting at a car which
7 he believed was the car that shot at the victims on
8 the, on the sidewalk.

9 His -- the shooting itself may have been
10 justified, but I do recall that they -- the officer,
11 and I don't know the colors of the car, he said it
12 was blue when, in fact, it was red.

13 It was a material fact, and it was actually
14 the opposite because there was two cars involved, and
15 IPRA sought separation on a Rule 14 violation, and
16 the superintendent concurred with that.

17 In fact, the superintendent wrote a PAX 501.
18 It's an all-employee memo that goes out and
19 explaining his position regarding that incident, but
20 that --

21 Q Could you define PAX 501, can you tell me
22 what that is?

23 A Yeah. It's a memo that goes out from the
24 superintendent. They're periodic, I would say three

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1 written policies in its real application, in its real
2 practice, does that match with the written policies?
3 That's the core of the question.

4 A Okay. You are going to have arguments on
5 both sides.

6 When there -- when a matter is sustained,
7 when there's discipline and if there is discipline,
8 the investigation has sustained an allegation, and
9 now it goes through a process of what is the penalty,
10 and that penalty could be as severe as separation or
11 it could be a reprimand, okay, and you're going to
12 have arguments by command channel.

13 You could have disagreement with the
14 superintendent and IPRA, and even if the
15 superintendent and IPRA agrees that an officer should
16 be separated, it's got to go to the Police Board, and
17 the Police Board may disagree with IPRA and the
18 superintendent and find -- well, they could do a
19 number of things.

20 They could find the officer did not violate
21 any policies and restore them back to their position.
22 They could agree with the -- IPRA and the
23 superintendent but not separate that officer, or they
24 could agree with the -- IPRA and the superintendent

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1	MR. STROTH: Q	So was the number for the
2	penalty written --	10:53:37
3	A No.	10:53:39
4	Q -- during that time period in question?	10:53:40
5	Okay, thank you. Can we go off the record	10:53:43
6	for a few minutes?	10:53:46
7	THE VIDEOGRAPHER: Off the record at 10:52 a.m.	10:53:47
8	(Brief recess taken.)	10:53:54
9	THE VIDEOGRAPHER: Back on the record at 10:53	10:55:06
10	a.m.	10:55:10
11	MR. STROTH: Q Does the City of Chicago have in	10:55:11
12	place policies and practices that impede the	10:55:14
13	investigation of officer misconduct?	10:55:20
14	MR. SCHOOP: That impede?	10:55:24
15	MR. STROTH: Impede.	10:55:26
16	MR. SCHOOP: Impede. You're talking from the	10:55:27
17	time from 2010 to 2016?	10:55:28
18	MR. STROTH: Yes, 2010 to 2016.	10:55:30
19	MR. SCHOOP: Do you understand the question?	10:55:33
20	THE WITNESS: I do.	10:55:35
21	MR. SCHOOP: Okay. Go ahead and answer the	10:55:35
22	question.	10:55:38
23	THE WITNESS: Again, this is one that people	10:55:38
24	could disagree with and argue one way or the other,	10:55:40

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1	but the Internal Affairs Division and IPRA to be now	10:55:44
2	COPA operate -- have to operate under the framework	10:55:49
3	in which various Collective Bargaining Agreements	10:55:53
4	have been approved, and there's various State	10:55:59
5	statutes that cover concern, especially like	10:56:03
6	anonymous complaints and sworn affidavits, so we have	10:56:08
7	to abide by those Collective Bargaining Agreements,	10:56:14
8	and we have to abide by the State statute and City	10:56:18
9	ordinances.	10:56:21
10	Obviously those things can change, and	10:56:22
11	during this timeframe, from 2010 to 2016, we did	10:56:25
12	change the various levels of appeals for police	10:56:30
13	misconduct that was sustained.	10:56:39
14	So prior to the 2012 contract, I believe	10:56:41
15	it's 2012, the officers were able to take a matter to	10:56:45
16	the Police Board or to grieve it or take it to the	10:56:52
17	superintendent. There was -- and I could be -- there	10:56:56
18	was three levels of review or appeals.	10:56:59
19	Now -- and that delays the process because	10:57:04
20	one could take a while, then you go to the other,	10:57:08
21	then you go to the other. And now you get one bite	10:57:11
22	of that apple, so to speak. You have to choose, so	10:57:16
23	that speeds up the process.	10:57:20
24	That is probably an example in which people	10:57:23

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1 would argue that impeded the disciplinary process
2 because it took so long for a final decision.

3 Another example that people discuss is the
4 sworn affidavit, and again, that's State statute, and
5 it's Collective Bargaining Agreement. Obviously
6 those things can be changed, but until then we have
7 to operate under that.

8 Now, that doesn't mean we cannot investigate
9 something in which we don't have a sworn affidavit if
10 we have independent verifiable evidence of that
11 allegation.

12 So if someone came in with an allegation of
13 police misconduct and then fails or refuses to sign
14 an affidavit, if we have independent verifiable
15 evidence, example, an audiotape or video of that
16 incident, we can override that sworn affidavit
17 requirement, okay.

18 So another example of which the process has
19 sped up is the command channel review. If an
20 investigation is sustained and it's less than
21 separation, it goes through a command channel review
22 process. That investigation goes to the commanding
23 officer of that officer that was charged and then the
24 next level up, typically a deputy chief.

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1		10:59:14
2	That process is kind of bogged down, and we	10:59:18
3	now implemented 15 days for each level. If you don't	10:59:24
4	respond in 15 days, you're deemed to accept it, and	10:59:28
5	it moves on to the next level, and after the deputy	10:59:32
6	chief, it usually goes back to the chief of Internal	10:59:35
7	Affairs for final disposition and then obviously the	10:59:37
	superintendent who has the final say.	
8	That has sped up the process, so things have	10:59:39
9	changed during this 2010 to 2016 to speed up the	10:59:42
10	investigations, but we still have to work under the	10:59:51
11	framework of the Collective Bargaining Agreements and	10:59:55
12	State law.	11:00:00
13	MR. STROTH: Q Commander Klimas, does the City	11:00:02
14	of Chicago's disciplinary system lack integrity?	11:00:04
15	MR. SCHOOP: I'm going to object to the clearly	11:00:08
16	argumentative form of the question, and that's --	11:00:10
17	that's not with -- that's not a good faith	11:00:14
18	interpretation of the designation for Paragraph 6.	11:00:17
19	MR. STROTH: Q We disagree with counsel's	11:00:19
20	perspective. My question is simple.	11:00:22
21	Commander Klimas, does the City of Chicago's	11:00:25
22	disciplinary system lack integrity from your -- from	11:00:27
23	the City's perspective?	11:00:31
24	MR. SCHOOP: You know what, Commander, go ahead	11:00:31

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1 and answer the question.

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2 THE WITNESS: I would strongly disagree. It has
3 integrity because we discipline officers all the
4 time, and we investigate criminal activity of
5 officers, and we have charged, worked with State's
6 attorneys or the Federal agencies, and we have
7 prosecuted department members, and they have gone to
8 jail, both civilians and sworn members.

9 If we didn't have integrity, then no one --
10 no matters would be sustained, no one would go to
11 jail, and we take discipline seriously, and I believe
12 it has a lot of integrity.

13 MR. STROTH: Q Thank you.

14 Does the City of Chicago's disciplinary
15 system fail to effectively deter officer misconduct?

16 MR. SCHOOP: Again, counsel, this question is
17 asking for an opinion that I would strongly and
18 vociferously suggest is outside the scope of
19 Paragraph 6.

20 But Commander, do you understand the
21 question?

22 THE WITNESS: I do.

23 MR. SCHOOP: Go ahead and answer the question,
24 please.

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1 THE WITNESS: The -- it does. We -- there are Page 49
2 matters that come to our attention in Internal 11:01:39
3 Affairs or the superintendent has asked us to conduct 11:01:45
4 some various investigations. Discipline should -- 11:01:48
5 the ultimate goal is to change behavior if it's 11:01:54
6 serious. 11:02:00
7 You're always going to have minor 11:02:03
8 transgressions, okay, you're late for roll call for 11:02:04
9 whatever reason, and you liked -- you know, that 11:02:06
10 usually goes to the district, hey, you know, you 11:02:11
11 could start off with a SPAR, if you continue to be 11:02:14
12 late, either you get a new alarm clock or you're 11:02:16
13 going to go up to the next level and you're going to 11:02:20
14 take more time off. 11:02:24
15 You're trying to discipline the officer to, 11:02:27
16 you know, change their behavior. It's just like 11:02:28
17 being a parent. Doesn't mean that you don't love 11:02:31
18 your children, but you have to discipline them at 11:02:34
19 times, and it's the same thing in the police 11:02:36
20 department, we're trying to change their behavior. 11:02:40
21 If it gets serious enough, then the 11:02:42
22 penalties go up, and if the matter is serious, it 11:02:45
23 could start out at a serious penalty, okay, and if 11:02:48
24 it's just so outrageous, it could -- first time could 11:02:54
 11:02:57